



ATTORNEY'S DOCKET TAN-293
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:) Group Art Unit: 1648
)
TOMIYAMA; UEYAMA; YANAGIYA;) Examiner: Shanon A Foley
OHKURA)
)
Serial No. 09/925,537)
)
Filed: August 10, 2001)

For: NON-MUCIN TYPE SYNTHETIC COMPOUNDS OR ITS CARRIER
CONJUGATED COMPOUNDS

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TECH CENTER 1600/2900

TRANSMITTAL LETTER

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TC 1700

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

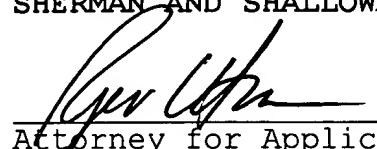
Submitted herewith for filing in the U.S. Patent and Trademark Office is the following:

- (1) Filing Receipt;
- (2) Transmittal Letter; and
- (3) Response to Restriction Requirement.

Please charge any additional fees, or credit any overpayment, in connection with this matter to deposit Account No. 19-1980.

Respectfully submitted,

SHERMAN AND SHALLOWAY


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RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

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Sir:

This is in response to the Office Action having a mailing date of May 07, 2003, with a one month shortened statutory period to respond set to expire on June 07, 2003. Accordingly, this response is timely filed.

In view of the following remarks, Applicants respectfully request the Examiner to withdraw the pending restriction requirements.

**SUMMARY OF RESTRICTION REQUIREMENT
AND SPECIES ELECTION**

The Restriction Requirement states as follows:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-4 and 17-28, drawn to a non-mucin synthetic compound, classified in class 536, subclass 55.1.

II. Claim 8, drawn to a method of making a galactopyranose, classified in class 536, subclass 22.1.

III. Claim 29-32, drawn to immunotherapy with the non-mucin synthetic compound, classified in class 424, subclass 278.1.

IV. Claims 33-36, drawn to monoclonal antibodies against the non-mucin synthetic compound, classified in class 530, subclass 388.1.

V. Claims 37-44 and 53-56, drawn to anti-tumor agent and a method of treating a tumor, classified in class 424, subclass 277.1.

VI. Claims 45-52 and 57-60, drawn to an anti-HIV agent and a method of treating HIV, classified in class 424, subclass 208.1.

PROVISIONAL ELECTION

Applicants provisionally elect with traverse an alleged Group I claims 1-4 and 17-28 drawn to a non-mucin synthetic compound as stated in the Restriction Requirement.

TRAVERSAL

Applicants respectfully traverse the Examiner's Restriction Requirement as to Groups I - VI because all the claims contain the limitation of non-mucin type synthetic compounds. That different claims are drawn to a method of making the compounds or methods of using the compounds should be a basis for restriction.

In particular, binding precedent states that the touchstone for requiring restriction is determining whether two or more independent and distinct inventions are claimed within the same application. MPEP §806. Restriction should never be required where the claims of an application define the same essential characteristics of a single disclosed embodiment of the invention. MPEP §806.03.

Here, all the claims clearly contain the limitation of non-mucin type synthetic compounds and its carrier.

In the event the restriction is not overcome, Applicants preserve the right to pursue the subject matter of the unelected claims in later applications.

CONCLUSION

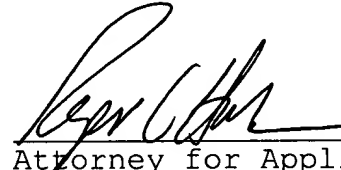
In view of the foregoing, Applicants respectfully request the

Examiner to reconsider and withdraw the restriction requirement and to examine all of the claims pending in this application.

If the Examiner has any questions or wishes to discuss this matter, the Examiner is welcomed to telephone the undersigned attorney.

Respectfully submitted,

SHERMAN AND SHALLOWAY

A handwritten signature in dark ink, appearing to read 'Roger C. Hahn', is written over a horizontal line.

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